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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

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~~No. 1381~~ 70-85

PAUL M. BRANZBURG, *Petitioner*

v.

JOHN P. HAYES, Judge, Jefferson Circuit Court, Criminal Branch, Second Division, *Respondent*

and

PAUL M. BRANZBURG, *Petitioner*

v.

HENRY MEIGS, Judge, Franklin Circuit Court, *Respondent*

MOTION OF AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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Comes now the American Newspaper Publishers Association, by its counsel, and moves this honorable Court for leave to file a brief *amicus curiae* in support of the petitioner, Paul M. Branzburg, on the following grounds:

1. The American Newspaper Publishers Association is a non-profit corporation organized and existing un-

der the laws of the State of New York. Its member newspapers comprise more than ninety percent of the daily and Sunday circulation of newspapers within the United States. In addition, nine newspaper members of the ANPA are located within the State of Kentucky.

2. On May 3, 1971, this Court granted the Petition of Paul M. Branzburg for a Writ of Certiorari to the Kentucky Court of Appeals. On that same day, this Court granted petitions for writs of certiorari in two related cases: *In Re Pappas,* No. 1434, and *United States* v. *Caldwell,* No. 1114. The ANPA, on behalf of its membership, for the reasons hereinafter stated, desires to file a brief *amicus curiae* in all of these three related cases. For this purpose, the ANPA has received consents in the *Pappas* case and in the *Caldwell* case. In addition, counsel for Paul M. Branzburg has consented to a brief *amicus curiae* by the ANPA in this instant case. However, counsel for ANPA personally spoke by telephone with Edwin A. Schroering, Esquire, Commonwealth Attorney for Jefferson County, Kentucky, the attorney for Respondent, Judge John P. Hayes, and has unsuccessfully attempted to contact William Brooke, Esquire, Commonwealth Attorney for Franklin County, Kentucky, the attorney for Respondent, Judge Henry Meigs. In any event, contacting Mr. Brooke would appear to be a fruitless venture at this juncture in that Mr. Schroering has specifically denied consent to the ANPA to file a brief *amicus curiae* in this instant case, hence this motion to the Court.

3. Although the issues in this case surrounding the interpretation of Section 421.100 of the Kentucky Revised Statutes are considered to be important by the ANPA, the transcending Constitutional right of free-

dom of the press is involved in this proceeding. An essential ingredient of this cherished right is the right of the public to be fully and adequately informed of local, national and international news. It is historically clear that the intent of the First Amendment to the Constitution was to provide the public with an untrammeled and uncensored press. There can be no question but that, in order to ensure the free and uncensored flow of information to the public, those engaged in news gathering and reporting must be privileged to hold confidential their sources of information.

4. As has been pointed out by counsel for Mr. Branzburg in his petition, there is a conflict of court decisions in the United States relating to the Constitutional concept of a news reporter's privilege to maintain the confidentiality of his sources of information. Because of this problem and the extreme importance of the Constitutional issues in this case and in the aforementioned related cases of *Caldwell* and *Pappas,* the ANPA respectfully urges this Court to grant this motion so that it may file a brief *amicus curiae* on behalf of its members and the many thousands of news gathering and reporting personnel employed by those members. The ANPA is hopeful that its brief will be of assistance to the Court in resolving the issues presented.

Respectfully submitted,

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